

Appl. No. 10/764,190  
Atty. Docket No. 9495  
Amdt. dated 12/9/2005  
Reply to Office Action of Oct. 31, 2005  
Customer No. 27752

REMARKS

Claim Status

Claims 1-14 were originally pending in the present application. Claim 1 has been amended. Claim 2 has been cancelled. New claims 15-16 has been added. It is believed that these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested. Claims 1 and 3-16 are now pending. No additional claims fee is believed to be due.

Rejection Under 35 USC §102 in View of House

Claims 1-5, 8-9, and 12 stand rejected under 24 USC §102(b) as being anticipated by House.

Specifically, House is cited as disclosing first and second vertical support members 13 having a nonlinear top support 14 that is substantially horizontal when compared to the vertical support members. House is further cited as disclosing top ends of the first and second vertical support members being joined to the top support member.

Applicant has amended claim 1 to recite that the first and second support members extend vertically and define a horizontal direction therebetween. A top support member is connected between the first and second support members. The top support member has at least one nonlinear portion extending in a third direction that intersects the second horizontal direction. As shown in Fig. 4, for instance, the top support member 110 has a curvature that intersects the horizontal direction between the first and second vertical members 120 and 130, respectively. This type of curvature provides advantages not recognized or attainable by the prior art. One such advantage is explicitly recited in the claim; namely that the first and second vertical support members together provide structural support for orienting and storing packaged absorbent articles in a substantially upright position on the shelf.

The cited prior art fails to teach or suggest an apparatus having the structural features of the claim 1 invention, and would be unsuitable for storing packaged absorbent articles in a substantially upright position on the shelf. For instance, in both House and Heroy, the top support member identified in the Office Action curves vertically, and hence the direction curvature does not intersect the horizontal direction (See House Fig. 1; Heroy Fig. 1). Instead, the direction of curvature in the prior art is coincident with (or

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parallel to) the horizontal direction. As a result, the curvature disclosed in the prior art would not provide the additional assistance in orienting and storing packaged absorbent articles that is achieved by the presently claimed direction of curvature. The present application recognizes the importance of being able to store the packaged articles in an upright position on the shelf so that the consumer is able to identify the desired product (See Page 1, lines 18-32). The claimed direction of curvature assists in achieving the goal of storing packaged articles in an upright position.

Because the combination of cited prior art fails to teach or suggest each element of claim 1 as amended, Applicant asserts that claim 1 is patentable over the cited prior art. Applicant further notes that Claim 2 has been cancelled, thereby obviating the rejection as to that claim. Applicant cites the patentability of claim 1 as providing sufficient basis for the allowability of claims 3-5, 8-9, and 12. Withdrawal of the rejection of claims 1, 3-5, 8-9, and 12 is therefore respectfully requested.

Rejection Under 35 USC §103(a) in View of House and Heroy

Claims 6 and 10 are rejected as being unpatentable over House in view of Heroy. Applicant notes that both claims 6 and 10 depend from claim 1 which has been shown to be allowable over the cited prior art. Applicant cites the patentability of claim 1 as providing sufficient basis for the allowability of claims 6 and 10. Withdrawal of the rejection of claims 6 and 10 is therefore respectfully requested.

New Claims

Applicant has added new claims 15 and 16 to the application.

New claim 15 recites that the first and second support members each define an upper and a lower end, the lower ends being connected to the shelf, and the top support member being connected between the upper ends.

New claim 16 recites that the third direction comprises a horizontal component. Applicant again notes that the nonlinear direction disclosed in the prior art have vertical, and not horizontal components.

Applicant cites the patentability of claim 1 as providing sufficient basis for the allowance of claims 15 and 16. Formal allowance of claims 15-16 is therefore respectfully requested.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the outstanding rejections. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of the claims is respectfully requested.

Respectfully submitted,

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